

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4623

Date: December 3, 2009

Applicant: Tad Carter

Address of Property: 5540 Clinton Avenue South

Project Name: 5540 Clinton Avenue South

Contact Person: Tad Carter, (612) 801-1155

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: November 6, 2009

End of 60-Day Decision Period: January 5, 2010

Ward: 11 **Neighborhood Organization:** Hale, Page, Diamond Lake Community Association

Existing Zoning: R1 Single Family District

Zoning Plate Number: 37

Legal Description: Not applicable

Proposed Use: A detached garage accessory to an existing single-family dwelling.

Variance: to increase the maximum height of a detached garage from 12 ft. to approximately 15 ft.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1) "to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations."

Background: The subject property is an irregular interior lot, approximately 60 ft. by 217 ft., on average, (13,020 sq. ft.). The property consists of an existing one and a half story dwelling. The following applications have been approved for the property since 2004:

- **Administrative approval:** A garage was approved through an administrative review to increase its maximum area from 676 sq. ft. to 934 sq. ft. through a combination of an existing attached garage and a new 26 ft. by 26 ft. detached garage in 2004. The conditions of approval required that the new garage meet the minimum interior side yard setback of 6 ft., because it was not located within the rear 40 feet of the lot.
- **Administrative approval:** The applicant applied for a permit for a 26 ft. by 26 ft. detached garage in 2004; however, the permit was never issued. The applicant applied for a new permit for a 26 ft.

by 26 ft. cement slab and foundation in 2005, approximately 3 ft. to the interior side property line.

- **Construction without approval:** The property owner constructed a new detached garage without a construction permit.
- **BOA approval:** On 7/16/05, the BOA approved a variance to reduce the north interior side yard from 6 feet to 3 feet to allow for the detached garage.
- **Planning Commission approvals:** After discovering the property line was not in the location indicated on the site plan approved by the Board of Adjustment, the property owner proposed to adjust the common lot line between 5540 and 5536 Clinton Avenue South. On 10/13/09 (BZZ-4564 and MS-199), the City Planning Commission approved the following applications:
 - Variance to reduce the interior side yard requirement from three feet to two feet to allow the existing garage located at the property of 5540 Clinton Ave S.
 - Minor subdivision for a lot line adjustment.

The proposed detached garage is approximately 15 ft. at the midpoint between the peak and eave of the gable roof. The applicant would be able to apply for an administrative review to increase the maximum height of a detached accessory structure to 16 ft. at the midpoint of the roof per section 537.50(b).

537.50. Maximum height. (b) *Accessory structures location in the residence and OR1 Districts.* A detached accessory structure, accessory to a principal use locate in a residence or OR1 District shall not exceed the height of the principal structure or twelve (12) feet, whichever is less. The maximum height may be increased to sixteen (16) feet or the height of the principal structures, whichever is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure and the roof pitch matches the primary roof pitch of the principal structure, and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.

The primary exterior material of the existing dwelling is brick. The rear elevation of the dwelling includes cedar siding on the shed dormer. The applicant is proposing brick on the front elevation of the detached garage and cedar siding on the remaining three elevations facing the interior and rear sides. The Zoning Administrator has determined that the cedar siding proposed on the majority of the detached garage does not comply with section 537.50(b) because the proposed primary exterior material of the garage does not match the primary exterior material on the home. Therefore, the applicant is requesting a variance to increase the maximum height of a detached garage to approximately 15 ft. without the condition of approval requiring that the exterior materials of the garage match the existing dwelling, as required by section 537.50(b) of the zoning code.

As of writing this staff report, staff has not received any correspondence from the Hale, Page, Diamond Lake Community Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code:

1. **The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The applicant is seeking a variance to increase the maximum height of a detached accessory structure to approximately 15 ft. where the exterior materials of the garage do not match the existing dwelling. The applicant has stated that it seems unnecessary to put bricks on the sides of the garage that are not visible or have restricted visibility and that the additional labor, material and engineering costs and time required creates undue hardship. The applicant is able to avoid a variance and instead apply for an administrative review to increase the maximum height of the detached garage if the materials of the garage match the dwelling. It is the applicant's desire to reduce costs that have created the need for the variance and staff does not believe that hardship exists.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The circumstances upon which the variance is requested have been created by the applicant and are purely based on economics. The applicant is seeking a variance to increase the maximum height of a detached accessory structure to approximately 15 ft. where the exterior materials of the garage do not match the existing dwelling. The applicant has stated that it seems unnecessary to put bricks on the sides of the garage that are not visible or have restricted visibility and that the additional labor, material and engineering costs and time required creates undue hardship. The applicant is able to avoid a variance and instead apply for an administrative review to increase the maximum height of the detached garage if the materials of the garage match the dwelling.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The granting of the variance may not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity; however, staff does not believe that granting this exception will be in with the spirit and intent of the ordinance. The zoning code was amended in 2000 to allow for the administrative increase in the maximum height of the detached garage under the condition that the exterior materials match that of the dwelling. Staff has consistently applied this provision in all of the administrative applications and required conditions of approval for variances to increase the height and floor area of detached garages. The purpose of these ordinances is to set standards governing the type, size, location and operational characteristics of accessory structures.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage addition to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development - Variance:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum height of a detached garage from 12 ft. to 15 ft. for the property located at 5540 Clinton Avenue South in the R1 Single Family Residence District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors, neighborhood associations, etc.
- 3) Copy of e-mail sent to neighborhood organization and CM Benson
- 4) Zoning map
- 5) Site plan
- 6) Building elevations
- 7) Floor plans
- 8) Photographs